

Persons who purchase tangible personal property in another state get a credit for tax that was properly due and paid to such other state. See 86 Ill. Adm. Code 150.310(a)(3). (This is a GIL.)

September 7, 2006

Dear Xxxxx:

This letter is in response to your letter dated April 21, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to request a letter ruling on the proper treatment for computer software purchases. These purchases, which are used in multiple states, consist of application software, licenses, and maintenance contracts for the software. The intent of this request is to determine if the purchaser would be given credit in your state for the tax erroneously paid on the entire purchase to the initial taxing state.

A. STATEMENT OF FACTS

1. The taxpayer/purchaser is headquartered in Ohio with locations in several surrounding states.
2. All software purchases regardless of the shipment method (i.e.: disk, email, internet download, load and leave), is initially processed through an Ohio location before being disbursed for use in locations outside of Ohio.
3. The taxpayer/purchaser paid Sales/Use tax to the State of Ohio on the entire purchase of the software, licenses and it's [sic] maintenance contracts even though tax was not due to the State of Ohio on the portion not used in Ohio.

B. EXAMPLE CASE

1. Client X purchased 10,000 software licenses from Vendor Y. Client X received the licenses on a disk, which was sent to an Ohio location.

2. Client X uses 5,000 of the licenses in the state of Ohio, and the remaining 5,000 licenses are used in your state.
3. Client X paid Sales/Use tax on all 10,000 licenses to the State of Ohio.
4. Does Client X receive Sales/Use tax credit in your state for the tax paid to the State of Ohio on the portion of licenses used in your state?

A ruling in regards to the aforementioned facts would be greatly appreciated. Also, if there have been any major rule changes in your state over the past 4 years that would've had a direct affect on this situation, could you please advise me as to the period of time that the change took place. If you have any questions please contact me. Any written correspondence should be made to my attention at the following address:

NAME/ADDRESS

DEPARTMENT'S RESPONSE

In Illinois, under the Use Tax Act, persons who purchase tangible personal property from out-of-State retailers, and either ship or bring that property into Illinois would incur Use Tax liability. The purchaser must self assess the tax and remit it directly to the Department of Revenue. The purchaser would get credit against his or her Illinois Use Tax obligations for taxes properly due and paid in another state. See 86 Ill. Adm. Code 150.310(a)(3).

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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